

CASE

NUMBER:

99-052

Construct
CELL SITE - 4335 WIRE ROAD - BARDSTOWN, NELSON COUNTY, KY

APPLICATION OF POWERTEL/KENTUCKY, INC., A DELAWARE CORPORATION, FOR ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT A PERSONAL COMMUNICATIONS SERVICES FACILITY IN B-263 BASIC TRADING AREA (THE L-KY-090-155 FACILITY)

SEQ NBR	ENTRY DATE	REMARKS
0001	02/11/99	Application.
0002	02/12/99	Acknowledgement letter.
0003	02/19/99	No def. letter
M0001	02/22/99	JIMMIE & LUDELL MORTON-LETTER OF CONCERN TO PLACEMENT OF TOWER
0004	03/04/99	Interest and Concern response to Jimmie & Ludell Morton
M0002	03/15/99	BRENT RICE / POWERTEL-RECEIPTS FOR CORRESPONDENCE FORWARDED VIA CERTIFIED MAIL
0005	07/12/99	Final Order entered.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 99-052 UAC
POWERTEL/KENTUCKY, INC.

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on July 12, 1999.

Parties of Record:

Allen E. Smith
President
Powertel/Kentucky, Inc.
1233 O.G. Skinner Drive
West Point, GA. 31833

Honorable W. Brent Rice
Counsel for Powertel/KY, Inc.
McBRAYER, McGINNIS, LESLIE &
KIRKLAND PLLC
163 West Short Street
Suite 300
Lexington, KY. 40507 1361

Stephan Bell

Secretary of the Commission

sB/lnh
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF POWERTEL/KENTUCKY, INC.)
FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO CONSTRUCT)
A PERSONAL COMMUNICATIONS SERVICES) CASE NO.
FACILITY IN B-263 BASIC TRADING AREA WHICH) 99-052-UAC
INCLUDES NELSON COUNTY (THE L-KY-090-155)
FACILITY))

O R D E R

On February 11, 1999, Powertel/Kentucky, Inc. ("Powertel/Kentucky") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a wireless telecommunications facility. The proposed facility is to be located at 4335 Wire Road, Bardstown, Nelson County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 49' 58.86" by West Longitude 85° 21' 3.33".

Powertel/Kentucky has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.987, Powertel/Kentucky has notified the Nelson County Planning Commission ("Planning Commission") of the proposed construction. To date, no comments have been filed by the Planning Commission. Powertel/Kentucky has filed

applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. Both decisions are pending.

Powertel/Kentucky has filed evidence of the appropriate notices provided pursuant to 807 KAR 5:063. The notices solicited any comments and informed the recipients of their right to request intervention. The Commission received comments from a property owner adjacent to the site, but no request for intervention or a public hearing was filed.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Powertel/Kentucky should notify the Commission if it does not use this antenna tower to provide service in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by Powertel/Kentucky.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Powertel/Kentucky has demonstrated that a facility is necessary to provide adequate utility service and therefore should be granted a Certificate of Public Convenience and Necessity to construct the proposed facility.

IT IS THEREFORE ORDERED that:

1. Powertel/Kentucky is granted a Certificate of Public Convenience and Necessity to construct a self-supporting antenna tower not to exceed 255 feet in height, with attached antennas, to be located at 4335 Wire Road, Bardstown, Nelson County, Kentucky. The coordinates for the proposed facility are North Latitude 37° 49' 58.86" by West Longitude 85° 21' 3.33".

2. Powertel/Kentucky shall file a copy of the final decisions regarding its pending FAA and KAZC applications for the proposed construction within 10 days of receiving these decisions.

3. Powertel/Kentucky shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 12th day of July, 1999.

By the Commission

ATTEST:


Executive Director



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
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Laura Douglas, Secretary
Public Protection and
Regulation Cabinet

Helen Helton
Executive Director
Public Service Commission

Paul E. Patton
Governor

March 4, 1999

Jimmie and Ludell Morton
1284 Wire Lane
Bardstown, KY 40004

Re: Case No. 99-052 UAC

Dear Mr. and Mrs. Morton:

Thank you for your letter of February 24, 1999, stating your concerns regarding the utility construction proposed in the above-referenced case. Your letter has been placed in the official case file of this proceeding. Please be assured that the Commission will carefully scrutinize this matter before rendering a final decision.

Please be advised, however, that this Commission is prohibited by law from releasing information contained in this application other than "information that specifically identifies the proposed location of the cellular antenna tower then being reviewed by the applying utility." KRS 278.665. The statute states that such information is "deemed confidential and proprietary," and that the Commission "shall deny any public request for the inspection of this information...except when ordered of release the information by a court of competent jurisdiction. Any person violating this subsection shall be guilty of official misconduct in the second degree...." Id.

You may contact the applying utility and request additional information. Before supplying such information, the utility may require you to enter into an agreement specifying that you will not release the information to other persons. The attorney of record for the applying utility in this case is W. Brent Rice, McBrayer, McGinnis, Leslie & Kirkland PLLC, 163 West Short Street, Suite 300, Lexington, Kentucky, 40507-1361. His telephone number is (606)231-8780.

Once again, thank you for your interest and concern.

Sincerely,

Helen C. Helton
Executive Director



Bardston
February

RECEIVED
FEB 24 1999
PUBLIC SERVICE
COMMISSION

To: Executive Director
Public Service Commission of Ky.
P. O. Box 615, Frankfort, Ky. 4062
Regarding Case No. 99-852 UAC

We received your letter Feb 12 - 1999 regarding a tower to be built on Shepards property. The map has Gemme & Ludell Morgan & Lynette Morgan, which is incorrect. We want a map with the right names on it. It is written so little & blurred we can't read it.

We own land on 2 sides of the proposed site. What kind of tower is it?

It is to be permanent?

What are the health risks? It has been proven towers cause cancer & other incurable health conditions.

There are young children, our grandchildren close to the site - how will it affect their health is a big worry for us.

Our family has owned the farm since 1941. Farming has been our sole livelihood. How will it affect our farming?

We know it will affect our land values, lowering it. Will it affect our T.V. reception?

Why can't it be put where it isn't so close to houses & children?

We would like our questions answered.

Gemme & Ludell Morgan
1284 Wye Lane
Bardston, Ky 40004



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

February 19, 1999

Allen E. Smith
President
Powertel/Kentucky, Inc.
1233 O.G. Skinner Drive
West Point, GA. 31833

Honorable W. Brent Rice
Counsel for Powertel/KY, Inc.
McBRAYER, MCGINNIS, LESLIE &
KIRKLAND PLLC
163 West Short Street
Suite 300
Lexington, KY. 40507 1361

RE: Case No. 99-052 UAC
POWERTEL/KENTUCKY, INC.

The Commission staff has reviewed your application in the above case and finds that it meets the minimum filing requirements. Enclosed please find a stamped filed copy of the first page of your filing. This case has been docketed and will be processed as expeditiously as possible.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

Stephanie Bell

Stephanie Bell
Secretary of the Commission

SB/sa
Enclosure

McBRAYER, MCGINNIS, LESLIE & KIRKLAND PLLC

163 WEST SHORT STREET
SUITE 300

LEXINGTON, KENTUCKY 40507-1361

606-231-8780

FACSIMILE 606-231-6518

REAL ESTATE FAX 606-255-9777

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OSCAR SAMMONS (1908-1985)

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P. O. BOX 1100
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502-223-1200
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DIRECTOR OF GOVERNMENTAL RELATIONS
MIKE HELTON
STATE NATIONAL BANK BUILDING
305 ANN STREET
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W. TERRY MCBRAYER
JOHN R. MCGINNIS
PHILLIP BRUCE LESLIE *
WILLIAM D. KIRKLAND
J. D. ATKINSON, JR.
JAMES G. AMATO
GEORGE D. GREGORY **
BRENT L. CALDWELL
W. BRENT RICE
JAMES H. FRAZIER, III +
STEPHEN C. CAWOOD
CHRISTOPHER M. HILL
LISA ENGLISH HINKLE
WILLIAM R. PALMER, JR.
BRUCE W. MACDONALD *
LUKE BENTLEY III
STEPHEN G. AMATO
MARY ESTES HAGGIN
R. STEPHEN MCGINNIS **
JON A. WOODALL
MARIA S. BUCKLES
MARGARET M. YOUNG
JULIE A. COBBLE
MELINDA G. WILSON
MARY ELIZABETH CUTTER
LINDA J. WEST
JARON P. BLANDFORD

* ALSO ADMITTED IN OHIO
** ALSO ADMITTED IN COLORADO
+ ALSO ADMITTED IN TEXAS & FLORIDA
** ALSO ADMITTED IN WEST VIRGINIA

FILED

FEB 11 1999
PUBLIC SERVICE
COMMISSION

February 9, 1998

RECEIVED

FEB 11 1999

PUBLIC SERVICE
COMMISSION

Ms. Helen C. Helton, Executive Director
Public Service Commission
730 Schenkel Lane
Frankfort, KY 40602

HAND DELIVERED

RE: **Application of Powertel/Kentucky, Inc. for Issuance of a Certificate of Public Convenience and Necessity to Construct a Personal Communications Services Facility in B-263 Basic Trading Area Which Includes Nelson County
Case No. 99-052 UAC (The L-KY-090-155 Facility)**

Dear Ms. Helton:

Please be advised that the undersigned represents Powertel/Kentucky, Inc. in regard to the above-referenced application which I am filing on its behalf today with the Commission.

The original application and five (5) copies of an additional page pursuant to 807 KAR 5:063 Section 5(2) are being submitted for filing. Additionally, three Site Plans are submitted with the application. Any comments or questions in regard to the application should be forwarded to the undersigned.

Thank you for your assistance in this matter.

Sincerely,



W. Brent Rice
Counsel for Powertel/Kentucky, Inc.

WBR/dkw

Enclosures



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
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February 12, 1999

Allen E. Smith
President
Powertel/Kentucky, Inc.
1233 O.G. Skinner Drive
West Point, GA. 31833

Honorable W. Brent Rice
Counsel for Powertel/KY, Inc.
McBRAYER, MCGINNIS, LESLIE &
KIRKLAND PLLC
163 West Short Street
Suite 300
Lexington, KY. 40507 1361

RE: Case No. 99-052 UAC
POWERTEL/KENTUCKY, INC.
(Contracts) CELL SITE - 4335 WIRE ROAD - BARDSTOWN, NELSON COUNTY, KY

This letter is to acknowledge receipt of initial application in the above case. The application was date-stamped received February 11, 1999 and has been assigned Case No. 99-052. In all future correspondence or filings in connection with this case, please reference the above case number.

If you need further assistance, please contact my staff at 502/564-3940.

Sincerely,

Stephanie Bell

Stephanie Bell
Secretary of the Commission

SB/sh

McBRAYER, MCGINNIS, LESLIE & KIRKLAND PLLC

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Thank you for your assistance in this matter.

Sincerely,



W. Brent Rice
Counsel for Powertel/Kentucky, Inc.

WBR/dkw

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FOR THE PUBLIC RECORD
COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF POWERTEL/KENTUCKY, INC.,)
A DELAWARE CORPORATION, FOR ISSUANCE)
OF A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY TO CONSTRUCT A PERSONAL) Case No. 99-052 UAC
COMMUNICATIONS SERVICES FACILITY IN)
B-263 BASIC TRADING AREA)
(THE L-KY-090-155 FACILITY))

UNIFORM APPLICATION: CONFIDENTIAL AND PROPRIETARY

* The specific location of the proposed construction is 4335 Wire Road, Bardstown, Nelson County, Kentucky.

** This additional page is filed pursuant to 807 KAR 5:063 Section 5(2).